

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PHUOC TRAN,

Plaintiff

v.

STATE OF NEVADA and CLARK
COUNTY DISTRICT ATTORNEY'S
OFFICE,

Defendants

Case No.: 2:23-cv-00867-APG-DJA

Order Regarding Service

On September 12, 2023, plaintiff Phuoc Tran was advised by the court that his complaint against defendants State of Nevada and Clark County District Attorney's Office would be dismissed without prejudice unless by October 12, 2023, Tran either filed proper proof of service or showed good cause why such service was not timely made. Tran has failed to do so. Tran filed a document showing that he sent, by certified mail, a copy of a portion of a Federal Rule of Civil Procedure 4 waiver of service request. ECF No. 14. That is not sufficient to satisfy the service requirements of Rule 4(c). First, it does not appear to be a complete copy of the waiver request form appended to Rule 4. *See* Rule 4(d)(1). Second, it does not appear to include the items required under Rule 4(d). And even if the waiver form is correct and complete, the defendants apparently did not respond to it, so it is Tran's obligation to serve as required under Rule 4(c). Attempts to serve a summons and complaint by certified mail are deficient under both federal and Nevada law because both require personal service. *See* Fed. R. Civ. P. 4(j), (e); Nev. R. Civ. P. 4(d). When service of process occurs within the United States, proof of service must be made to the court by the server's affidavit. Fed. R. Civ. P. 4(l)(1). A certified return receipt does not qualify as a server's affidavit.

1 In recognition of Tran's pro se status, I will give Tran 30 more days to effect service on
2 the defendants as required under Rule 4. If Tran fails to file proof of proper service by
3 November 14, 2023, I will dismiss this case without prejudice.

4 DATED this 13th day of October, 2023.



5 ANDREW P. GORDON
6 UNITED STATES DISTRICT JUDGE
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